

By: Representative Hines

To: Corrections; Judiciary B

HOUSE BILL NO. 113

1 AN ACT TO AMEND SECTIONS 47-7-27 AND 47-7-37, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT WHENEVER AN OFFENDER IS PLACED IN A  
3 TECHNICAL VIOLATION CENTER FOR A VIOLATION REPORT, THE TERM OF  
4 IMPRISONMENT FOR THE OFFENDER IN THE CENTER SHALL RUN CONCURRENTLY  
5 AND NOT CONSECUTIVELY; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 47-7-27, Mississippi Code of 1972, is  
8 amended as follows:

9 47-7-27. (1) The board may, at any time and upon a showing  
10 of probable violation of parole, issue a warrant for the return of  
11 any paroled offender to the custody of the department. The  
12 warrant shall authorize all persons named therein to return the  
13 paroled offender to actual custody of the department from which he  
14 was paroled.

15 (2) Any field supervisor may arrest an offender without a  
16 warrant or may deputize any other person with power of arrest by  
17 giving him a written statement setting forth that the offender  
18 has, in the judgment of that field supervisor, violated the  
19 conditions of his parole or earned-release supervision. The



20 written statement delivered with the offender by the arresting  
21 officer to the official in charge of the department facility from  
22 which the offender was released or other place of detention  
23 designated by the department shall be sufficient warrant for the  
24 detention of the offender.

25 (3) The field supervisor, after making an arrest, shall  
26 present to the detaining authorities a similar statement of the  
27 circumstances of violation. The field supervisor shall at once  
28 notify the board or department of the arrest and detention of the  
29 offender and shall submit a written report showing in what manner  
30 the offender has violated the conditions of parole or  
31 earned-release supervision. An offender for whose return a  
32 warrant has been issued by the board shall, after the issuance of  
33 the warrant, be deemed a fugitive from justice.

34 (4) Whenever an offender is arrested on a warrant for an  
35 alleged violation of parole as herein provided, the board shall  
36 hold an informal preliminary hearing within seventy-two (72) hours  
37 to determine whether there is reasonable cause to believe the  
38 person has violated a condition of parole. A preliminary hearing  
39 shall not be required when the offender is not under arrest on a  
40 warrant or the offender signed a waiver of a preliminary hearing.  
41 The preliminary hearing may be conducted electronically.

42 (5) The right of the State of Mississippi to extradite  
43 persons and return fugitives from justice, from other states to  
44 this state, shall not be impaired by this chapter and shall remain



45 in full force and effect. An offender convicted of a felony  
46 committed while on parole, whether in the State of Mississippi or  
47 another state, shall immediately have his parole revoked upon  
48 presentment of a certified copy of the commitment order to the  
49 board. If an offender is on parole and the offender is convicted  
50 of a felony for a crime committed prior to the offender being  
51 placed on parole, whether in the State of Mississippi or another  
52 state, the offender may have his parole revoked upon presentment  
53 of a certified copy of the commitment order to the board.

54 (6) (a) The board shall hold a hearing for any parolee who  
55 is detained as a result of a warrant or a violation report within  
56 twenty-one (21) days of the parolee's admission to detention. The  
57 board may, in its discretion, terminate the parole or modify the  
58 terms and conditions thereof. If the board revokes parole for a  
59 technical violation the board shall impose a period of  
60 imprisonment, which term of imprisonment shall be served  
61 concurrently and not consecutively for each violation report, to  
62 be served in a technical violation center operated by the  
63 department not to exceed ninety (90) days for the first technical  
64 violation and not to exceed one hundred twenty (120) days for the  
65 second technical violation. For the third technical violation,  
66 the board may impose a period of imprisonment to be served in a  
67 technical violation center for up to one hundred and eighty (180)  
68 days or the board may impose the remainder of the suspended  
69 portion of the sentence. For the fourth and any subsequent



70 technical violation, the board may impose up to the remainder of  
71 the suspended portion of the sentence. The period of imprisonment  
72 in a technical violation center imposed under this section shall  
73 not be reduced in any manner.

74 (b) If the board does not hold a hearing or does not  
75 take action on the violation within the twenty-one-day time frame  
76 in paragraph (a) of this subsection, the parolee shall be released  
77 from detention and shall return to parole status. The board may  
78 subsequently hold a hearing and may revoke parole or may continue  
79 parole and modify the terms and conditions of parole. If the  
80 board revokes parole for a technical violation the board shall  
81 impose a period of imprisonment, which term of imprisonment shall  
82 be served concurrently and not consecutively for each violation  
83 report, to be served in a technical violation center operated by  
84 the department not to exceed ninety (90) days for the first  
85 technical violation and not to exceed one hundred twenty (120)  
86 days for the second technical violation. For the third technical  
87 violation, the board may impose a period of imprisonment to be  
88 served in a technical violation center for up to one hundred  
89 eighty (180) days or the board may impose the remainder of the  
90 suspended portion of the sentence. For the fourth and any  
91 subsequent technical violation, the board may impose up to the  
92 remainder of the suspended portion of the sentence. The period of  
93 imprisonment in a technical violation center imposed under this  
94 section shall not be reduced in any manner.



95           (c) For a parolee charged with a technical violation  
96 who has not been detained awaiting the revocation hearing, the  
97 board may hold a hearing within a reasonable time. The board may  
98 revoke parole or may continue parole and modify the terms and  
99 conditions of parole. If the board revokes parole for a technical  
100 violation the board shall impose a period of imprisonment, which  
101 term of imprisonment shall be served concurrently and not  
102 consecutively for each violation report, to be served in a  
103 technical violation center operated by the department not to  
104 exceed ninety (90) days for the first technical violation and not  
105 to exceed one hundred twenty (120) days for the second technical  
106 violation. For the third technical violation, the board may  
107 impose a period of imprisonment to be served in a technical  
108 violation center for up to one hundred eighty (180) days or the  
109 board may impose the remainder of the suspended portion of the  
110 sentence. For the fourth and any subsequent technical violation,  
111 the board may impose up to the remainder of the suspended portion  
112 of the sentence. The period of imprisonment in a technical  
113 violation center imposed under this section shall not be reduced  
114 in any manner.

115           (7) Unless good cause for the delay is established in the  
116 record of the proceeding, the parole revocation charge shall be  
117 dismissed if the revocation hearing is not held within the thirty  
118 (30) days of the issuance of the warrant.



119 (8) The chairman and each member of the board and the  
120 designated parole revocation hearing officer may, in the discharge  
121 of their duties, administer oaths, summon and examine witnesses,  
122 and take other steps as may be necessary to ascertain the truth of  
123 any matter about which they have the right to inquire.

124 (9) The board shall provide semiannually to the Oversight  
125 Task Force the number of warrants issued for an alleged violation  
126 of parole, the average time between detention on a warrant and  
127 preliminary hearing, the average time between detention on a  
128 warrant and revocation hearing, the number of ninety-day sentences  
129 in a technical violation center issued by the board, the number of  
130 one-hundred-twenty-day sentences in a technical violation center  
131 issued by the board, the number of one-hundred-eighty-day  
132 sentences issued by the board, and the number and average length  
133 of the suspended sentences imposed by the board in response to a  
134 violation.

135 **SECTION 2.** Section 47-7-37, Mississippi Code of 1972, is  
136 amended as follows:

137 47-7-37. (1) The period of probation shall be fixed by the  
138 court, and may at any time be extended or terminated by the court,  
139 or judge in vacation. Such period with any extension thereof  
140 shall not exceed five (5) years, except that in cases of desertion  
141 and/or failure to support minor children, the period of probation  
142 may be fixed and/or extended by the court for so long as the duty  
143 to support such minor children exists. The time served on



144 probation or post-release supervision may be reduced pursuant to  
145 Section 47-7-40.

146 (2) At any time during the period of probation, the court,  
147 or judge in vacation, may issue a warrant for violating any of the  
148 conditions of probation or suspension of sentence and cause the  
149 probationer to be arrested. Any probation and parole officer may  
150 arrest a probationer without a warrant, or may deputize any other  
151 officer with power of arrest to do so by giving him a written  
152 statement setting forth that the probationer has, in the judgment  
153 of the probation and parole officer, violated the conditions of  
154 probation. Such written statement delivered with the probationer  
155 by the arresting officer to the official in charge of a county  
156 jail or other place of detention shall be sufficient warrant for  
157 the detention of the probationer.

158 (3) Whenever an offender is arrested on a warrant for an  
159 alleged violation of probation as herein provided, the department  
160 shall hold an informal preliminary hearing within seventy-two (72)  
161 hours of the arrest to determine whether there is reasonable cause  
162 to believe the person has violated a condition of probation. A  
163 preliminary hearing shall not be required when the offender is not  
164 under arrest on a warrant or the offender signed a waiver of a  
165 preliminary hearing. The preliminary hearing may be conducted  
166 electronically. If reasonable cause is found, the offender may be  
167 confined no more than twenty-one (21) days from the admission to  
168 detention until a revocation hearing is held. If the revocation



169 hearing is not held within twenty-one (21) days, the probationer  
170 shall be released from custody and returned to probation status.

171 (4) If a probationer or offender is subject to registration  
172 as a sex offender, the court must make a finding that the  
173 probationer or offender is not a danger to the public prior to  
174 release with or without bail. In determining the danger posed by  
175 the release of the offender or probationer, the court may consider  
176 the nature and circumstances of the violation and any new offenses  
177 charged; the offender or probationer's past and present conduct,  
178 including convictions of crimes and any record of arrests without  
179 conviction for crimes involving violence or sex crimes; any other  
180 evidence of allegations of unlawful sexual conduct or the use of  
181 violence by the offender or probationer; the offender or  
182 probationer's family ties, length of residence in the community,  
183 employment history and mental condition; the offender or  
184 probationer's history and conduct during the probation or other  
185 supervised release and any other previous supervisions, including  
186 disciplinary records of previous incarcerations; the likelihood  
187 that the offender or probationer will engage again in a criminal  
188 course of conduct; the weight of the evidence against the offender  
189 or probationer; and any other facts the court considers relevant.

190 (5) (a) The probation and parole officer after making an  
191 arrest shall present to the detaining authorities a similar  
192 statement of the circumstances of violation. The probation and  
193 parole officer shall at once notify the court of the arrest and





194 detention of the probationer and shall submit a report in writing  
195 showing in what manner the probationer has violated the conditions  
196 of probation. Within twenty-one (21) days of arrest and detention  
197 by warrant as herein provided, the court shall cause the  
198 probationer to be brought before it and may continue or revoke all  
199 or any part of the probation or the suspension of sentence. If  
200 the court revokes probation for a technical violation, the court  
201 shall impose a period of imprisonment, which term of imprisonment  
202 shall be served concurrently and not consecutively for each  
203 violation report, to be served in either a technical violation  
204 center or a restitution center not to exceed ninety (90) days for  
205 the first technical violation and not to exceed one hundred twenty  
206 (120) days for the second technical violation. For the third  
207 technical violation, the court may impose a period of imprisonment  
208 to be served in either a technical violation center or a  
209 restitution center for up to one hundred eighty (180) days or the  
210 court may impose the remainder of the suspended portion of the  
211 sentence. For the fourth and any subsequent technical violation,  
212 the court may impose up to the remainder of the suspended portion  
213 of the sentence. The period of imprisonment in a technical  
214 violation center imposed under this section shall not be reduced  
215 in any manner.

216 (b) If the offender is not detained as a result of the  
217 warrant, the court shall cause the probationer to be brought  
218 before it within a reasonable time and may continue or revoke all



219 or any part of the probation or the suspension of sentence, and  
220 may cause the sentence imposed to be executed or may impose any  
221 part of the sentence which might have been imposed at the time of  
222 conviction. If the court revokes probation for a technical  
223 violation, the court shall impose a period of imprisonment, which  
224 term of imprisonment shall be served concurrently and not  
225 consecutively for each violation report, to be served in either a  
226 technical violation center or a restitution center not to exceed  
227 ninety (90) days for the first technical violation and not to  
228 exceed one hundred twenty (120) days for the second technical  
229 violation. For the third technical violation, the court may  
230 impose a period of imprisonment to be served in either a technical  
231 violation center or a restitution center for up to one hundred  
232 eighty (180) days or the court may impose the remainder of the  
233 suspended portion of the sentence. For the fourth and any  
234 subsequent technical violation, the court may impose up to the  
235 remainder of the suspended portion of the sentence. The period of  
236 imprisonment in a technical violation center imposed under this  
237 section shall not be reduced in any manner.

238 (c) If the court does not hold a hearing or does not  
239 take action on the violation within the twenty-one-day period, the  
240 offender shall be released from detention and shall return to  
241 probation status. The court may subsequently hold a hearing and  
242 may revoke probation or may continue probation and modify the  
243 terms and conditions of probation. If the court revokes probation



244 for a technical violation, the court shall impose a period of  
245 imprisonment, which term of imprisonment shall be served  
246 concurrently and not consecutively for each violation report, to  
247 be served in either a technical violation center operated by the  
248 department or a restitution center not to exceed ninety (90) days  
249 for the first technical violation and not to exceed one hundred  
250 twenty (120) days for the second technical violation. For the  
251 third technical violation, the court may impose a period of  
252 imprisonment to be served in either a technical violation center  
253 or a restitution center for up to one hundred \* \* \* eighty (180)  
254 days or the court may impose the remainder of the suspended  
255 portion of the sentence. For the fourth and any subsequent  
256 technical violation, the court may impose up to the remainder of  
257 the suspended portion of the sentence. The period of imprisonment  
258 in a technical violation center imposed under this section shall  
259 not be reduced in any manner.

260 (d) For an offender charged with a technical violation  
261 who has not been detained awaiting the revocation hearing, the  
262 court may hold a hearing within a reasonable time. The court may  
263 revoke probation or may continue probation and modify the terms  
264 and conditions of probation. If the court revokes probation for a  
265 technical violation the court shall impose a period of  
266 imprisonment, which term of imprisonment shall be served  
267 concurrently and not consecutively for each violation report, to  
268 be served in either a technical violation center operated by the



269 department or a restitution center not to exceed ninety (90) days  
270 for the first technical violation and not to exceed one hundred  
271 twenty (120) days for the second technical violation. For the  
272 third technical violation, the court may impose a period of  
273 imprisonment to be served in either a technical violation center  
274 or a restitution center for up to one hundred eighty (180) days or  
275 the court may impose the remainder of the suspended portion of the  
276 sentence. For the fourth and any subsequent technical violation,  
277 the court may impose up to the remainder of the suspended portion  
278 of the sentence. The period of imprisonment in a technical  
279 violation center imposed under this section shall not be reduced  
280 in any manner.

281 (6) If the probationer is arrested in a circuit court  
282 district in the State of Mississippi other than that in which he  
283 was convicted, the probation and parole officer, upon the written  
284 request of the sentencing judge, shall furnish to the circuit  
285 court or the county court of the county in which the arrest is  
286 made, or to the judge of such court, a report concerning the  
287 probationer, and such court or the judge in vacation shall have  
288 authority, after a hearing, to continue or revoke all or any part  
289 of probation or all or any part of the suspension of sentence, and  
290 may in case of revocation proceed to deal with the case as if  
291 there had been no probation. In such case, the clerk of the court  
292 in which the order of revocation is issued shall forward a  
293 transcript of such order to the clerk of the court of original



294 jurisdiction, and the clerk of that court shall proceed as if the  
295 order of revocation had been issued by the court of original  
296 jurisdiction. Upon the revocation of probation or suspension of  
297 sentence of any offender, such offender shall be placed in the  
298 legal custody of the State Department of Corrections and shall be  
299 subject to the requirements thereof.

300 (7) Any probationer who removes himself from the State of  
301 Mississippi without permission of the court placing him on  
302 probation, or the court to which jurisdiction has been  
303 transferred, shall be deemed and considered a fugitive from  
304 justice and shall be subject to extradition as now provided by  
305 law. No part of the time that one is on probation shall be  
306 considered as any part of the time that he shall be sentenced to  
307 serve.

308 (8) The arresting officer, except when a probation and  
309 parole officer, shall be allowed the same fees as now provided by  
310 law for arrest on warrant, and such fees shall be taxed against  
311 the probationer and paid as now provided by law.

312 (9) The arrest, revocation and recommitment procedures of  
313 this section also apply to persons who are serving a period of  
314 post-release supervision imposed by the court.

315 (10) Unless good cause for the delay is established in the  
316 record of the proceeding, the probation revocation charge shall be  
317 dismissed if the revocation hearing is not held within thirty (30)  
318 days of the warrant being issued.



319 (11) The Department of Corrections shall provide  
320 semiannually to the Oversight Task Force the number of warrants  
321 issued for an alleged violation of probation or post-release  
322 supervision, the average time between detention on a warrant and  
323 preliminary hearing, the average time between detention on a  
324 warrant and revocation hearing, the number of ninety-day sentences  
325 in a technical violation center issued by the court, the number of  
326 one-hundred-twenty-day sentences in a technical violation center  
327 issued by the court, the number of one-hundred-eighty-day  
328 sentences issued by the court, and the number and average length  
329 of the suspended sentences imposed by the court in response to a  
330 violation.

331 **SECTION 3.** This act shall take effect and be in force from  
332 and after July 1, 2018.

